

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WADE C. ULRICH and ANITA SERRA,
Co-Conservators and Co-Guardians of
CARL ULRICH, a Protected Person,

Plaintiffs,

v.

Case No. 2:11-cv-15545
Honorable Victoria A. Roberts

NATIONAL CASUALTY COMPANY,
ALLSTATE INSURANCE COMPANY,
GREAT AMERICAN ASSURANCE,
COMPANY,

Defendants.

ORDER

On August 3, 2012, the Court issued an Order for Defendants to Show Cause why this case should not be remanded for lack of jurisdiction (Doc. # 33). The Court heard oral argument on August 8, 2012. At the hearing, the parties cited law they believed supported their positions.

The Court **DENIES** Plaintiffs' request for remand.

Lee-Lipstreu v. Chubb Group of Ins. Cos., 329 F.3d 898 (6th Cir. 2003), governs here.

In *Lee-Lipstreu*, the Sixth Circuit held that 28 U.S.C. §1332(c) could not be used to bar a direct federal court action against one's own insurance carrier. The Court explained:

Applying the direct action provision to a dispute solely between an insured and her own insurance company would

result in an absurdity -- federal courts would never hear common insurance disputes because the insured and insurer, the plaintiff and the defendant, would always be considered citizens of the same state. We recognize that the direct action provision applies in certain situations involving injureds and insurers, but we conclude that it does not apply here.

“Following *Lee-Lipstreu*, several different judges in the Eastern District of Michigan have concluded that the Sixth Circuit has rejected the contention that §1332(c)'s direct action provision applies to a dispute between an insured and his or her own insurance company.” *Waskowski v. State Farm Mut. Auto. Ins. Co.*, 2012 U.S. Dist. LEXIS 96237 (E.D. Mich. July 11, 2012) (listing cases).

Given these holdings, Defendants need only satisfy the regular diversity requirements under § 1332(a). Plaintiff is a citizen of Michigan and no Defendant is a citizen of Michigan. There is no dispute that the amount in controversy exceeds \$75,000. Accordingly, this Court has jurisdiction over this action based on diversity of jurisdiction.

The Court **DENIES** Plaintiffs' request for remand.

IT IS ORDERED.

/s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: November 7, 2012

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on November 7, 2012.

S/Linda Vertriest
Deputy Clerk